
 PLANNING DEPARTMENT

GOVERNMENTAL CENTER



 COUNTY OF SANTA CRUZ

 701 OCEAN STREET SANTA CRUZ, CALIFORNIA 95060
 FAX (408) 454-2131 TDD (408) 454-2123 PHONE (408) 454-2580
Agenda Date: August 8, 2000

Date: July 27, 2000

 Board of Supervisors
 County of Santa Cruz
 701 Ocean Street
 Santa Cruz, CA 95060

Subject: Status of Santa Cruz Biotechnology Coastal Development Permit. Application and Master Plan Environmental Impact Report

Members of the Board:

On June 6, 2000, at the conclusion of a lengthy public hearing, your Board authorized the Planning Director to issue an Emergency Coastal Development permit to Santa Cruz Biotechnology for the purpose of constructing barn roof extensions and other work needed to address water quality impacts associated with their biomedical livestock operation on Back Ranch Road. In a letter dated June 29th, the Planning Director indicated to the applicant that he would not be issuing Emergency Coastal Development permit, but would schedule a public hearing before your Board on August 8th for consideration of the Regular Coastal Development permit application (#OO-0429). A copy of this letter has previously been provided to your Board.

As you know, the Coastal Commission, in a letter dated July 10, 2000, ordered Santa Cruz Biotechnology to cease operations at the ranch and to remove all goats prior to July 21st (Attachment 1). Santa Cruz Biotechnology has complied with this order and has relocated the goats to an out-of-county location. Planning Department staff visited the ranch on July 26th and observed that the goat herd has been removed. The removal of goats from the property has obviated the need to continue processing Coastal Development permit #00-0429 and, on July 21st, Santa Cruz Biotechnology formally withdrew this application (Attachment 2).

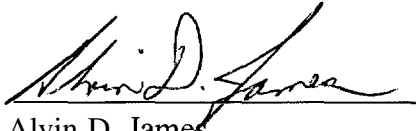
Your Board has also directed Planning and Environmental Health Services to report to you on this date regarding contingency measures which could be implemented on the Santa Cruz Biotechnology property, should water quality monitoring reveal that fecal coliform levels remain high. At this juncture, given that the herd has been removed from the property, contingency measures which assume the presence of goats would appear to be unnecessary. Notwithstanding the fact that the herd has been removed, Environmental Health Services staff have indicated that it is their intention to conduct sampling during the winter period in order to assess any residual effects of the operation on water quality.

Finally, on June 6th, your Board directed that we evaluate the culvert located upslope of Coast Road residences which affects drainage through the neighborhood. Residents expressed concerns related to fecal coliform contamination in the natural swale which conveys water through the area. We believe that these health and safety-related concerns have been addressed through the removal of the goat herd from the upslope ranch and through implementation of the other remedial actions, including removal of contaminated soils, ordered by the Coastal Commission.

The Planning Department had also anticipated bringing contracts to your Board on this date for preparation of the biomedical livestock operation Master Plan EIR. Due to the recent events related to the Santa Cruz Biotechnology operation discussed above, the applicant has requested that they be given until August 31st to review the EIR documents (Attachment 3). We believe that this is a reasonable proposal and have advised the applicant that their request for a time extension will be granted. We will advise your Board as to the applicant's intention regarding preparation of the project EIR on or before September 19th.

It is therefore RECOMMENDED that you accept and file this report regarding various issues related to Santa Cruz Biotechnology and direct the Planning Department to provide a report on or before September 19, 2000 regarding efforts related to the biomedical livestock Master Plan EIR.

Sincerely,



Alvin D. James
Planning Director

RECOMMENDED:



Susan A. Mauriello
County Administrative Officer

Attachments: 1. Coastal Commission Letter Dated July 10, 2000
2. Santa Cruz Biotechnology Letter Dated July 21, 2000 (Withdrawal)
3. Santa Cruz Biotechnology Letter Dated July 21, 2000 (EIR Contracts)

cc: John and Brenda Stephenson
Environmental Health Services
County Counsel
SOAL
Paul Bruno, Thelen, Reid, & Priest

STATE OF CALIFORNIA - THE RESOURCES AGENCY

GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
ENFORCEMENT DIVISION
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877

0259



Sent Via Regular Mail, Certified Mail (Certified Mail Receipts P 320 675 338 (Stephenson) & P 320 675 339 (Edwards)), and Fax to Attorney Paul Bruno, Esq.

July 10, 2000

John and Brenda Stephenson
2161 Delaware Avenue
Santa Cruz, CA 95060

Ralph and Roland Edwards
5021 Coast Road
Santa Cruz, CA 95060

Property Location: Along both sides of Back Ranch Road inland of its intersection with Highway One, approximately four miles north of the Santa Cruz City limits in the north coast area of Santa Cruz County (APNs 059-021-08, 062-151-03, and 059-021-03).

Subject Activity: Unpermitted biomedical livestock operation and continuing unpermitted development activities in support of same (Santa Cruz Biotechnology Incorporated).

Violation File: V-3-00-017

Dear John and Brenda Stephenson & Ralph and Roland Edwards:

The purpose of this letter is to notify you that staff of the California Coastal Commission have confirmed that the above-referenced activities on your properties, which are located in the coastal zone, were undertaken without first obtaining a coastal development permit. As such, the activities constitute a violation of the Santa Cruz County certified Local Coastal Program (LCP) and the Coastal Act. On behalf of the Executive Director of the Commission, you are hereby notified to stop immediately all development activities on the property that require a coastal development permit.

Section 30600(a) of the California Coastal Act (Public Resources Code (PRC) 30000 et seq) states that in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a coastal development permit. This coastal permit requirement is mirrored by the Santa Cruz County LCP which has been certified by the Coastal Commission as consistent with and adequate to carry out the

v-3-00-017

John and Brenda Stephenson & Ralph and Roland Edwards

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Coastal Act. Development is broadly defined by PRC Section 30106 and the certified LCP (Land Use Plan Glossary of Terms and Zoning Code Section 13.20.040) as follows:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading; removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition; or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

The biomedical livestock operation currently located on Santa Cruz County Assessor Parcel, Numbers 059-021-08, 062-151-03, and 059-021-03 began operation in 1996. The initial establishment and subsequent expansion of the subject use on the site has changed the intensity of use of the land, changed the intensity of use of water and access thereto, and resulted in the construction of numerous structures. As such, the subject biomedical livestock operation constitutes "development" and therefore requires a coastal development permit.

The County determined in 1996 that the certified LCP did not allow for the subject biomedical livestock operation. When subsequently asked by the County for advice, the Executive Director of the Commission determined in 1996 that the certified LCP's coastal permit exclusion for certain types of agriculturally related development (County Code Section 13.20.073) did not apply to the subject biomedical livestock use and development in support of same.

In June 1998, the Commission certified amendments to the County's LCP to allow such biomedical livestock operations as a conditional, discretionary use on agriculturally zoned properties. Pursuant to County Code Section 13.10.647, establishment of such a use requires approval of a coastal permit and a coastal p&t-approved master plan. This master plan shall, among other things, define the appropriate intensity and locations of the use and other associated development in light of the identified constraints and relevant LCP policies, including but not limited to those protecting coastal water quality, riparian resources, coastal access and the public viewshed.

v-3-00-017

John and Brenda Stephenson & Ralph and Roland Edwards

July 10, 2000

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As we currently understand it, the subject biomedical livestock operation has intensified from a couple of dozen biomedical goats in 1996 to approximately 1,680 goats today. This facility has well documented negative impacts on coastal resources. In addition to significant degradation of the on-site riparian corridors, as evidenced from aerial photo documentation we have reviewed to date, and potentially of visual resources, runoff contaminated with goat feces and urine has led to grossly elevated fecal coliform levels in runoff from the site.¹ Such impacts from the unpermitted development are in direct conflict with LCP policies protecting these coastal resources.

The initial establishment of the operation and its intensification have been without benefit of a coastal permit and without benefit of a coastal, permit-approved master plan as required by the LCP. Please be advised that any development activity performed without a coastal development permit constitutes a violation of the permitting requirements of both the certified LCP and the Coastal Act.

On June 16, 2000, pursuant to PRC Sections 30809 and 30810, the Deputy Director of the Coastal Commission formally requested that the County initiate immediate enforcement action to remedy the LCP violation occurring on your properties. The Deputy Director indicated that, pursuant to Section 30809(a)(2), if the County declines to act or does not take action in a timely manner, the Executive Director of the Commission is prepared to assert Coastal Act enforcement authority over this situation. Your attorney, Paul Bruno, was sent a copy of this letter request. The County has not initiated action to enforce the LCP's requirements applicable to the subject unpermitted use. As a result, the Executive Director of the Commission is asserting enforcement authority over this matter and is prepared to issue a cease and desist order to discontinue the existing, unpermitted use of the site.

Therefore, in order to maintain compliance with LCP requirements, you are hereby notified on behalf of the Executive Director to immediately stop all work on the property which requires a coastal development permit. To comply with this directive, you must take the following actions on or before July 21, 2000:

Discontinue the biomedical livestock operation at this location. This includes removing from the properties: (a) all goats; (b) all manure; and (c) all materials contaminated with feces and/or urine (e.g., hay, soils, absorbent substances, etc.). All structures put in place to support the unpermitted USC may remain on the site pending ultimate disposition of this matter through the LCP-required master plan and coastal

¹ According to the most recent data from the Santa Cruz County Department of Health Services, runoff from the SCBI site has been documented to have levels of fecal coliform bacteria ranging from 2,800 to 30,380 MPN/100ml, well above the applicable body-contact standard of 400 MPN/100ml, and well above the levels found concurrently by the County in other nearby waterways. This is corroborated by even higher fecal coliform levels, up to 10,000 MPN/100ml, documented by the Central Coast Regional Water Quality Control Board during 1998 and 1999. This polluted runoff has been found in groundwater, watercourses, and flowing through residential yards and the ocean to the detriment of adjacent residents, downstream beachgoers and surfers, as well as animal and fishery habitat in and along the watercourses here.

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John and Brenda Stephenson & Ralph and Roland Edwards

July 10, 2000

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permit process. If the required coastal permit is eventually denied, or if it authorizes different structures and/or different structure locations, the structures on the site shall be removed and/or relocated on site as necessary to comply with this final coastal permit decision.

You are hereby further directed, on or before July 14, 2000, to notify the Commission's Central Coast Office whether or not you agree to carry out the actions described in the preceding paragraph within the timeframe specified therein.

We are providing you with this notice pursuant to PRC Section 30809(b). That provision authorizes the Executive Director to issue a cease and desist order against you if you fail to respond to this notice in a satisfactory manner. The term "satisfactory manner" is defined in California Code of Regulations, Title 14, Section 13180.

The Executive Director cease and desist order may be subject to terms and conditions that are necessary to avoid irreparable injury to the area and/or to ensure compliance with the LCP. Please note that violation of an Executive Director cease and desist order can result in civil fines of up to \$6,000 for each day in which the violation persists.

Please note, too, that PRC Sections 30803 and 30805 authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act, in this case as implemented through the certified LCP. PRC Section 30820(a) provides that any person who violates any provision of the Coastal Act may be subject to a penalty amount not to exceed \$30,000. In addition, it is our understanding that the subject biomedical use has been ongoing since 1996 notwithstanding your knowledge that such a use requires a coastal permit. PRC Section 30820(b) states that, in addition to any other penalties, any person who "intentionally and knowingly" performs any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1,000 nor more than \$15,000 for each day in which the violation persists.

In sum, the subject unpermitted biomedical livestock operation must cease immediately. We recognize that a short period of time is necessary to move the animals and animal waste off the site. Therefore, you have until July 21, 2000 to discontinue the subject biomedical livestock operation at this location as described above. Please note that no coastal development permit is required to remove the animals and their waste provided they are not relocated to a site in the coastal zone. After the goats and manure and associated cited materials have been removed, we will need to discuss necessary site restoration and stabilization. Site restoration may require the filing of coastal development permits. Finally, please be advised that if the Executive Director issues a cease and desist order he will simultaneously schedule a hearing for the Commission to consider pursuant to PRC Section 30810 the issuance of a permanent cease and desist order to resolve this situation.

v-3-00-017
John and Bre
July 10, 2000
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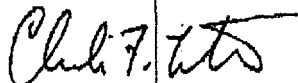
Stephenson & Ralph and Roland Edwards

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Please contact me or Dan Carl of my staff at the address and phone number above by July 14, 2000 to provide us your response to this notice.

Thank you for your anticipated cooperation.

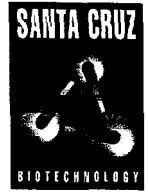
Sincerely,



Tami Grove
Deputy Director
California Coastal Commission

cc Alvin James, Director, Santa Cruz County Planning Department
Samuel Torres, Esq., County Counsel, Santa Cruz County
Paul Bruno, Esq., Attorney for Santa Cruz Biotechnology and Ralph Edwards
Amy Roach, Acting Chief, California Coastal Commission Enforcement Program

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July 21, 2000

Mr. Ken Hart
Principal Planner
Santa Cruz County Planning Department
701 Ocean Street, Room 400
Santa Cruz, CA 95060

Via hand delivery

RE: WITHDRAWAL OF EMERGENCY COASTAL ZONE PERMIT
APPLICATION NO. 00-0429

Dear Mr. Hart:

As a result of recent actions taken by Coastal Commission staff, at this time Santa Cruz Biotechnology, Inc. (SCB) hereby withdraws emergency coastal zone permit application no. 00-0429. We appreciate all of the hard work you and your colleagues have given towards this project. At your convenience, please initiate a refund all remaining at-cost permit fees.

If you have any questions, I may be reached at 457-3800.

Sincerely

Matt Mullin

cc: Alvin James, Planning Director
Tami Grove, Deputy Director, Coastal Commission
Paul Bruno, Thelen Reid & Priest

July 21, 2000

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Mr. Alvin D. James
Planning Director
Santa Cruz County Planning Department
701 Ocean Street, Room 400
Santa Cruz, CA 95960

Via hand delivery

Subject: EIR Contracts for Application 98-0647

Dear Mr. James:

We are in receipt of a letter by Kim Tschantz dated July 14, 2000 wherein he transmitted EIR documents to Santa Cruz Biotechnology, Inc. (SCB). Mr. Tschantz requested the EIR contracts to be returned to him by July 25, 2000.

In view of the recent Coastal Commission directives for SCB to cease its existing biomedical agricultural use of the property, we respectfully request an extension from July 25, 2000 to August 31, 2000 to review the EIR documents. As you might imagine, considerable attention and resources have been diverted towards achieving compliance with the rigorous demands and deadline issued by the Coastal Commission. SCB's compliance with said directives has been disruptive to every aspect of its business and additional time to review the EIR documents would be appreciated.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Mullin".

Matt Mullin

cc: David Lee, Assistant Planning Director
Kim Tschantz, Environmental Planner
Jackie Young, Development Review Planner
Paul Bruno, Thelen Reid & Priest